

REMARKS

The present application was filed on February 28, 2002 with claims 1-19. New dependent claim 20 is added herein. Claims 1-20 are currently pending in the application. Claims 1, 18 and 19 are the independent claims.

Claims 1, 2, 4, 5, 9-11, 14, 18 and 19 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent Application Publication No. 2002/0159411 (hereinafter "Airy") in view of U.S. Patent No. 6,072,784 (hereinafter "Agrawal").

Claims 3, 8, 12, 13, 16 and 17 are rejected under §103(a) as being unpatentable over Airy and Agrawal in view of additional references.

Claims 6 and 7 are indicated as containing allowable subject matter.

In this response, Applicants amend the claims, and respectfully request reconsideration of the present application.

Applicants initially note that the Office Action fails to provide an appropriate disposition for dependent claim 15. Although claim 15 is listed among the rejected claims on the Office Action Summary page, the only other reference to claim 15, at page 9, section 9, of the Office Action, seems to indicate that claim 15 contains allowable subject matter. It therefore appears that claim 15 may have been meant to be listed with the claims containing allowable subject matter.

In any case, this fundamental deficiency renders the Office Action facially unclear, inconsistent and indefinite, and as such it fails to comply with the regulations promulgated by the USPTO. See, for example, 37 C.F.R. §1.104(b), which indicates that the Office Action "will be complete as to all matters," and 37 C.F.R. §1.104(c)(1), which indicates that "[i]f the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected."

Thus, in the event the present application is not considered to be in condition for allowance responsive to the amendments and remarks made herein, a new Office Action clearly setting forth a proper disposition of each pending claim should be issued. The new Office Action should be indicated as having a non-final status so that Applicants can be provided with a fair and reasonable opportunity to consider such dispositions.

Applicants respectfully traverse the §103(a) rejections involving Airy and Agrawal on the grounds that the collective teachings of these references fail to teach or suggest each and every

limitation of independent claims 1, 18 and 19 as originally filed. Moreover, it is believed that insufficient objective evidence of motivation to combine the references has been provided.

Notwithstanding the traversal, Applicants have amended independent claims 1, 18 and 19 to clarify that a transmission priority is determined for the constituent transmission elements of a group by designating one or more of the constituent transmission elements as current high priority transmission elements, with the other constituent transmission elements in the group being arranged in order of decreasing priority relative to the one or more current high priority transmission elements. Support for the amendment can be found in the specification at, for example, page 12, lines 19-28, and page 14, lines 16-23.

Dependent claim 6 has been rewritten in independent form, and is believed allowable in accordance with the indication of allowable subject matter.

New dependent method claim 20 has been added and includes limitations similar to those found in dependent claim 6 as originally filed.

Accordingly, claims 1-20 as amended are believed to be in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is fluid and cursive, with the first name "Joseph" and last name "Ryan" clearly legible.

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Date: May 16, 2006